APPENDIX A

Opinion of the Supreme Court of Illinois, filed September 29, 1967:

Docket No. 40476—Agenda 49—May, 1967.

Anthony Haswell, Appellant, v. Paul Powell, Secretary of State, Appellee.

Mr. CHIEF JUSTICE SOLFISBURG delivered the opinion of the court:

This appeal involves the constitutionality of section 6—206 of the Illinois Motor Vehicle Law (Ill. Rev. Stat. 1965, chap. 95½, par. 6—206) which authorizes the Secretary of State to suspend or revoke a driver's license under certain circumstances. Plaintiff, Anthony Haswell, was convicted of three offenses against traffic regulations governing the movement of vehicles within a twelve-month period, and acting pursuant to statute the Secretary of State notified plaintiff that his right to drive would be suspended for four months. An administrative hearing resulted in an order of the Secretary of State on November 10, 1965, suspending plaintiff's right to drive for ninety days. Plaintiff's complaint for administrative review resulted in an order by the circuit court of Cook County affirming the Secretary's decision. Plaintiff, having properly preserved his constitutional claims, appeals directly to this court.

The statute, insofar as it is applicable here, provides:

"(a) The Secretary of State is authorized to suspend or revoke the license or permit of any person without preliminary hearing upon a showing by his records or other sufficient evidence that such person:

• • •

2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period so as to indicate a disrepect for traffic laws and a disregard for the safety of other persons on the highways; conviction upon 3 charges of violation of Section 49 of the Uniform Act Regulating Traffic on Highways committed within a period of 12 months shall be deemed grounds for the revocation or suspension of a license or permit under this section, * * *;

* * * *

"(c) 1. Upon suspending or revoking the license or permit of any person as hereinbefore in this Section authorized, the Secretary of State shall immediately notify such person in writing of the order revoking or suspending the license or permit. * * *

2. At the conclusion of a hearing pursuant to Section 2—117, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension therefor; or, good cause appearing therefor, rescind, continue, change or extend his order of suspension." '

Plaintiff insists that the application of the statute unconstitutionally deprives him of a valuable right without due process of law. The Secretary of State, however, insists that the statute is valid as a reasonable exercise of the police power.

In support of his contention plaintiff insists that driving a motor vehicle is a right, freedom or liberty, while the Secretary suggests that it is a privilege that is subject to administrative regulation. Such an exercise in semantics provides no answer to the question of the validity of the

statute before us. Whether the operation of a motor vehicle is termed a right or a privilege, we think it clear that such operation is subject to regulation under the police power. (*Pierce* v. *Carpentier*, 20 Ill.2d 526.) We conceive the issue to be whether the statute under attack is a reasonable exercise of this power. Considering the ever-increasing death toll on our highways we view the suspension of a driver's license after conviction of three moving violations to be a reasonable exercise of the police power for the safety of persons on the highway.

Plaintiff, however, argues that the suspension is punishment for past illegal conduct and can only be imposed after a judicial proceeding. We do not agree. The operation of a motor vehicle is subject to such reasonable regulation as the legislature may prescribe, and the application of such regulation is an administrative matter, civil in nature. The action of the Secretary in suspending plaintiff's license was not an exercise of judicial power and not violative of article III of the constituiton of Illinois relating to the separation of powers. As we pointed out in *Cermak Club, Inc.* v. *Illinois Liquor Control Com.*, 30 Ill.2d 90, the doctrine of separation of powers does not preclude an administrative adjudication of facts sufficient to apply legislative rules for the revocation of licenses.

Since the present proceeding is civil and administrative in character, the requirements of due process have been met by giving plaintiff notice and the opportunity to be heard. (*Brotherhood of Railroad Trainmen* v. *Elgin, Joliet and Eastern Railway Co.*, 382 Ill. 55.) Nor were plaintiff's rights violated by the fact that both the hearing officer and the attorney presenting the facts were agents of the Secretary of State. *Marcello* v. *Bonds*, 349 U.S. 302, 99 L. Ed. 1107.

We have also considered plaintiff's contentions that the statute is void for uncertainty and that the discretion vested in the Secretary denies the plaintiff equal protection of the laws, and find both contentions to be without merit. We have examined similar statutory provisions and we find that the Illinois statute sets forth sufficiently clear standards to govern the administration of the legislative policy. (*Cf. Damer* v. *Hass,* (Iowa, 1965), 257 Ia. 654, 134 N.W.2d 534; *Anderson* v. *Commissioner of Highways,* 267 Minn. 308, 126 N.W 2d 778; *Johnson* v. *Sanchez,* 67 N.M. 41, 351 P.2d 449; *Ross* v. *MacDuff,* 309 N.Y. 56, 127 N.E.2d 806.) There is also nothing to indicate that all drivers are not treated alike under like circumstances and conditions, which is all that the constitutional provision for equal protection of the law commands.

We therefore conclude that the statute in question is a clear and proper exercise of the police power and was fairly applied to the plaintiff. The judgment of the circuit court of Cook County is affirmed.

Judgment affirmed.

APPENDIX B

Judgment of the Supreme Court of Illinois

UNITED STATES OF AMERICA

STATE OF ILLINOIS
SUPREME COURT } ss.

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the eleventh day of September in the year of our Lord, one thousand nine hundred and sixty-seven, within and for the State of Illinois.

PRESENT: ROY J. SOLFISBURG, JR., CHIEF JUSTICE

JUSTICE WALTER V. SCHAEFER

JUSTICE BYRON O. HOUSE

JUSTICE THOMAS E. KLUCZYNSKI

JUSTICE RAY I. KLINGBIEL

JUSTICE ROBERT C. UNDERWOOD

JUSTICE DANIEL P. WARD

WILLIAM G. CLARK, ATTORNEY GENERAL

ROBERT G. MILEY, MARSHAL

ATTEST: MRS. EARLE BENJAMIN SEARCY, CLERK

Be It Remembered, that, to-wit: on the 29th day of September 1967, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said court, had and entered of record, to-wit:

Anthony Haswell, Appellant		Appeal from Circuit Court Cook County 65 L 29071
No. 40476	vs.	
Paul Powell, Secretary of State, Appellee		Error to

And now, on this day, this cause having been argued by counsel, and the Court, having diligently examined and inspected as well the record and proceedings aforesaid, as matters and things therein assigned for error, and now, being sufficiently advised of and concerning the premises for that it appears to the Court now here, that neither in the record and proceedings aforesaid, nor in the rendition of the judgment aforesaid, is there anything erroneous, vicious or defective, and in that record there is no error.

THEREFORE, it is considered by the Court that the judgment of the Circuit Court of Cook County aforesaid, BE AFFIRMED IN ALL THINGS AND STAND IN FULL FORCE AND EFFECT, notwithstanding the said matter and things therein assigned for error.

I, MRS. EARLE BENJAMIN SEARCY, Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, do hereby certify that the foregoing is a true copy of the final order of the said Supreme Court in the above entitled cause of record in my office.

In Witness Whereof, I have hereunto subscribed my name and affixed the Seal of said court this day of , 19 .

Clerk,
Supreme Court of the State of Illinois